S. B. Civil Second Appeal No.108/2004.
(Nathu v. Smt. Rupi and Others)

Date of Order: :15-01-2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.Sanjay Mathur, for Appellant.
Mr.Manish Shishodia, for Respondents.

Heard learned counsel for the parties.

The defendant-appellant is aggrieved against the judgment and decree of the trial Court dated 31st August, 1999 and Appellate Court's judgment and decree dated 31st March, 2004.

According to the plaintiff, the adoption deed got registered on 22nd May, 1981, evidencing adoption of defendant – Nathulal by Smt. Amara Bai was null and void, therefore, defendant Nathulal had no right, title or interest in the properties of deceased Amara Bai. It is also submitted that the appellants are the only legal heirs and successors of deceased Smt.Amara Bai. The plaintiff suit was decreed by the trial Court after rejecting the defendant-appellant's plea that the adoption of appellant-defendant Nathu is valid as the adoption was permissible by customary law. It will be worthwhile to mention here that admittedly, at the time of adoption, Nathu was of the age of 30 years, he was married and had children also. To prove the validity of the adoption, the plaintiff gave his statement and

produced witness Gomna D.W.2. The two courts below concurrently held that that the defendant miserably failed to prove the custom allowing the adoption of married man of 30 years age and the man having children.

After going through the facts of the case, I do not find that any substantial question of law is involved in this appeal, in view of the fact that the appellant failed to prove custom with respect to adoption permitting the adoption of the person like appellant of 30 years of age, who was married and had children.

In view of the above, the appeal is dismissed.

(PRAKASH TATIA), J.

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